

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Randal Fritz

v.

Case No. 06-cv-469-PB

Kenneth Brown and Katharine Daly

O R D E R

Randal Fritz charges in this action that Kenneth Brown and Katharine Daly retaliated against him in violation of his rights under the First Amendment. On May 29, 2007, I issued an order dismissing certain of Fritz's claims but allowing him to proceed on other claims. Defendants have since filed a motion for summary judgment attacking the remaining claims.

The First Circuit has recently issued three decisions that address the legal issues on which this case turns. These decisions, Rosado-Quinones v. Toledo, 528 F.3d 1 (1st Cir. 2008), Davignon v. Hodgson, 524 F.3d 91 (1st Cir. 2008), and Curran v. Cousins, 509 F.3d 36 (1st Cir. 2007), have not been adequately addressed in the parties' summary judgment briefs. Moreover, they may call into question my ruling on the motion to dismiss that Fritz was acting as a citizen on a matter of public concern when he filed the lawsuit on which his current claims are based.

Rather than attempt to address the significance of these issues on my own, I direct the defendants to file a new summary judgment motion addressing all three parts of the test described in Garcetti v. Ceballos, 547 U.S. 410 (2006). Defendants' renewed motion for summary judgment shall be filed on or before April 27, 2009. Plaintiff's response shall be filed on or before May 27, 2009. Defendants' reply memorandum shall be filed on or before June 8, 2009.

The clerk shall schedule the matter for oral argument as soon as the renewed motion is ripe and the court will resolve the matter on an expedited basis. The current motion (Doc. No. 48) is denied without prejudice. Defendants' motion to strike portions of plaintiff's objection (Doc. No. 56) is denied as moot.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge
District of New Hampshire

March 27, 2009

cc: Pierre Rumpf, Esq.
Paula Werme, Esq.
Nancy J. Smith, Esq.